

## Memorandum

**To:** Members, Senate Natural Resources Committee  
**From:** Karen Horn, Director Public Policy & Advocacy  
**Re:** S. 100 Housing Opportunities Made for Everyone  
**Date:** March 2, 2023

Housing in Vermont is an enormous and immediate crisis, that affects all income levels and which every currently sitting legislator promised to resolve in their campaigns. We have all been complicit in creating this crisis and we all need to make changes now that allow for the development of housing at all income levels.

The Senate Economic Development, Housing and General Affairs Committee took that charge seriously and last week voted out S. 100, the omnibus housing bill. They understand, as the United Nations Declaration of Human Rights established, that housing is a human right.

The Vermont Housing Finance Agency has identified a need for 40,000 additional housing units. The question is, where will those homes be built?

How many housing units are not built because zoning permits were appealed or projects were sized to avoid Act 250 jurisdiction? Those are lost homes. When housing projects are scaled back the financing becomes more difficult and in some cases impossible. How many housing units have been lost because developers could not afford to build them?

Land use planning and permitting are core responsibilities that voters in more than 253 cities, Towns, and villages have granted their municipal governments. According to the Agency of Commerce and Community Development, 253 municipalities have adopted plans. There are 207 municipalities with adopted zoning or subdivision bylaws. There are 98 municipalities that have received Municipal Planning Grants or Bylaw Modernization Grants to update zoning bylaws to accommodate housing development and redevelopment. The work is being done today. We believe that encouraging towns to continue that work, or providing flexibility will be most effective in providing for housing instead of one size fits all zoning mandates in state law such as those in S. 100, section 2. Chip Sawyer and Alex Weinhagen spoke eloquently to that issue yesterday.

In Vermont, the state Downtown Development Board has approved designated areas for growth and infill that comprise 41 of Vermont's 9,600 square miles or 26,240 acres. Those 41 square miles include village centers, many of which do not have wastewater or water supply services. That is not a lot of already occupied land in to wedge 40,000 housing units. It will not come close to happening if Act 250 jurisdiction continues to apply in those designated areas.

The bill increases the number of housing units that may be built before Act 250 jurisdiction is triggered, to 25. That increase would allow some housing units to be built outside of designated areas in compliance with local land use regulations, and potentially make it financially reasonable to build missing middle and affordable units.

We believe the most transformative changes in S. 100 would be to:

- Establish flexibility to amend zoning bylaws to incorporate provisions to increase density and tailor to circumstances in different municipalities. An option would be to establish that density requirements shall be met unless the appropriate municipal panel establishes in writing the reasons for establishing a standard that provides for less density. Authorize the appropriate municipal panel to establish reasonable height limitations that account for health and safety considerations. (Sec. 2, 24 V.S.A. § 4412, Sec. 10 24 V.S.A. § 4464(b))
- Eliminate the provision for any ten people to appeal a zoning permit. Still able to appeal will be a person owning title to the property, a host municipality, adjoining municipality or solid waste district, a person in the immediate neighborhood who can demonstrate a physical or environmental impact on the person's interest, any department and administrative subdivision owning any interest in property, and the Agency of Commerce and Community Development. (Sec. 6 of S. 100, 24 V.S.A. § 4465 (4))
- Eliminate appeals of zoning permits for housing in designated areas based on "character of the area". (Sec. 9 24 V.S.A § 4471 (e))

- Establish that a person appealing a zoning permit decision should not be able to appeal with the goal of reducing the number of units below the number of units allowed in the district. (Proposal from VLCT, not in S. 100)
  
- Eliminate Act 250 jurisdiction for priority projects and extend eligibility for priority housing projects to designated village centers. (Sec. 16, 10 V.S.A. §§ 6001 (3)(A)(iv) and (35), 6081 § (y))
  
- Increase the number of units that can be built before Act 250 is triggered. (Sec. 16, 10 V.S.A. § 6001 (3)(A)(iv))
  
- Eliminate altogether the language in Act 250 that establishes jurisdiction based on “construction of housing projects...” constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years”. (10 V.S.A. 6 001 (3)(A)(iv)). Likewise, amend section (19)(A)(i) for purposes of housing, to remove the language regarding “within a radius of five miles of any point on any lot, or within the jurisdictional area of the same District Commission within any continuous period of five years”. (Sec. 16 10 V.S.A. § 6001 (19)(A)(iv))
  
- Establish an Enhanced Designation Process for Municipalities to Incorporate Act 250 criteria in the local zoning permit process for review of projects in designated areas. (Sec. 19, 24 V.S.A. § 2793f)
  
- Eliminate Agency of Natural Resources duplicative permitting of connections to wastewater and water supply. Municipalities, which own, operate, maintain, and whose users pay for those infrastructure investments, permit connections to those systems today. The current duplicative system adds no value and costs developers both dollars and time. (Sec.24, 10 V.S.A. § 1974; Sec. 25, 10 V.S.A. 1983)
  
- Require property owners to disclose when they are selling property located on a Class IV Road or legal trail and that the town is not obligated to maintain the road or trail. (Sec. 23, 27 V.S.A. § 617)

We are concerned about the subsection (H) that would prohibit towns from regulating hotels or penalizing a hotel from renting rooms to provide housing assistance through Vermont’s General Assistance Program or public funds. There are not state staff or support services for the many needs of those who are receiving housing assistance. As a result, municipal police, fire, and emergency medical services are both severely strained and exhausted as they are the people on the ground who must respond. Likewise, we urge you to define “emergency shelters” for purposes of 24 V.S.A. § 4413 (G), to read, emergency shelters regulated by the Agency of Human Services that incorporate wrap around support services to meet the needs of those who use emergency shelters”.

We strongly support the funding for housing programs in the bill.

We appreciate the opportunity to testify on S. 100.